

March 8, 2011

Hon. Eric D. Coleman, Senator  
Hon. Gerald Fox, III, House Representative  
Chairmen, Judiciary Committee  
Room 2500, Legislative Office Building  
Hartford, CT 06106

Re: Letter in Support of Raised Bills No. 6539 and 6475

Dear Chairmen and Committee Members:

We write in support of Raised Bills No. 6539, "An Act Concerning Sentence Modification," and Raised Bill No. 6475, "An Act Concerning Mandatory Minimum Sentences," and ask the Judiciary Committee to endorse both bills. Adoption of the first bill will have a direct and favorable impact on persons who have been sentenced to life or near-life prison terms, with no meaningful opportunity of release, for crimes they committed when they were as young as 14. Adoption of the second bill will prevent future injustice by allowing judges to impose sentences reflective of the reduced culpability of our state's youth.

Under current Connecticut law, children as young as 14 face mandatory transfer to adult court for certain crimes, lack any opportunity to challenge the transfer, and are subject to the same mandatory minimum sentences as adults.<sup>1</sup> Once a sentence is imposed, these children have no opportunity for parole or for later review of the sentence by the judge without permission of the prosecutor.<sup>2</sup> As a consequence, where mandatory minimum sentences apply, judges cannot recognize the diminished culpability of children that the scientific community now agrees exists. And a judge is unable to take a second look at a sentence imposed on a child – even decades later, after the child has grown into a mature and rehabilitated adult. Children are growing old and will die in prison without any hope of a second chance. Raised Bills No. 6539 and 6475 provide this committee with a chance to correct that injustice.

The proposed bills also provide a necessary response to a new U.S. Supreme Court decision. Last year, the Supreme Court held in *Graham v. Florida*<sup>3</sup> that life-without-parole sentences for juvenile defendants who did not "kill, intend to kill, or foresee that life will be taken" violated the Eighth Amendment's prohibition on cruel and unusual punishment.<sup>4</sup> Citing new research on adolescent brain development, the Court held that, though tried and sentenced as adults, juveniles were not as culpable and were more capable of reform than adults who committed the same crimes.<sup>5</sup>

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<sup>1</sup> Conn. Gen. Stat. § 46b-127 (West 2008).

<sup>2</sup> Conn. Gen. Stat. § 53a-39 (West 2008).

<sup>3</sup> *U.S.*, 130 S.Ct. 2011 (2010).

<sup>4</sup> *Id.* at 2016

<sup>5</sup> *See id.*

The Supreme Court was clear that while the Eighth Amendment does not ban long sentences for juvenile offenses, it does “forbid States from making the judgment at the outset that those offenders never will be fit to reenter society.”<sup>6</sup> After *Graham*, litigation has commenced across the country and state legislatures are responding by reforming their juvenile sentencing statutes to accord with the Court’s decision. By enacting Raised Bills No. 6539 and 6475, the Connecticut Legislature can avoid *Graham*-related litigation in the state and conform Connecticut law to Eighth Amendment requirements.

## **I. The Benefits of “An Act Concerning Sentence Modification”**

### **A. Case Study: A 50-year sentence for a 14 year old girl**

People like Robin Ledbetter, serving a 50-year sentence for a crime committed at the age of 14, have carried the burden of injustice. Robin’s childhood was not meant for a child. When her mother wasn’t home shooting up, she was running the streets, leaving Robin alone for as long as a month at a time. Her father was in and out of prison.<sup>7</sup> Robin was eventually abandoned to DCF custody. Shortly after she turned 14, at a time when she had no real home or family, she became involved in a robbery with an older boy that ended with the death of a cab driver. Now, despite remarkable personal rehabilitation and maturation over the last 14 years spent behind bars, she could never have the opportunity to be heard by a judge without adoption of Raised Bill No. 6539.

Many of those sentenced at such an early age have undergone substantial rehabilitation, exhausting every program offered at our corrections facilities. Robin, for her part, has completed all available programs, counsels younger inmates, and currently works as a nurse’s assistant in the York Correctional Institution’s infirmary. The commitment, drive, and success of people like Robin demonstrate that individuals who committed crimes as children should be given a chance to make amends for their offenses and have a positive impact on the outside community.

### **B. New Scientific Research on Brain Development**

Recent studies conducted on adolescent development demonstrate a marked disparity between juvenile culpability and that of an adult. Imaging studies show that an adolescent brain is anatomically undeveloped in parts associated with impulse control, emotional regulation, risk assessment and moral reasoning.<sup>8</sup> Related psychological studies have shown the following regarding adolescent psychological development:

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<sup>6</sup> *Id.* at 2030.

<sup>7</sup> Helen Ubiñas, *Sentence Wasting Another Life*, Hartford Courant (Oct. 16, 2005).

<sup>8</sup> Jay N. Giedd, *Structural Magnetic Resonance Imaging of the Adolescent Brain*, 1021 ANN. N.Y. ACAD. SCI. 77-85 (2004); Nitin Gogtay et al., *Dynamic Mapping of Human Cortical Development During Childhood Through Early Adulthood*, 101 PROCEEDINGS NAT’L ACAD. SCI. 8174 (2004); Elizabeth R. Sowell et al., *Mapping Cortical Change Across the Human Life Span*, 6 NATURE NEUROSCIENCE 309 (2003).

- “Research has shown that susceptibility to peer influence, particularly in situations involving pressure to engage in antisocial behavior, increases between childhood and early adolescence, peaks at around age 14.”<sup>9</sup>
- Exposure to peer pressure *doubles* the amount of risky behavior in children 14 years of age.<sup>10</sup>
- Adolescents, unlike their adult counterparts, do not consider long-term consequences of their actions.<sup>11</sup>

### C. The Supreme Court’s Decision in *Graham v. Florida*

The above-mentioned psychological research was the basis for the United States Supreme Court’s recent decision in *Graham v. Florida*.<sup>12</sup> The Supreme Court in *Graham* held that a sentence of life without parole for a non-homicide offense was unconstitutional, and stated that while a “State is not required to guarantee eventual freedom to such [a child],” it must still “impose a sentence that provides some meaningful opportunity for release based on demonstrated maturity and rehabilitation.”<sup>13</sup> Because juveniles are not yet fully capable of impulse-control, independent judgment, and self-discipline, they can and do change as they grow up. As Justice Kennedy said for the Court in *Graham*, “maturity can lead to that considered reflection which is the foundation for remorse, renewal, and rehabilitation.”<sup>14</sup> The Court was particularly concerned with the fact that “Graham’s sentence guarantees he will die in prison without any meaningful opportunity to obtain release, no matter what he might do to demonstrate that the bad acts he committed as a teenager are not representative of his true character, even if he spends the next half century attempting to atone for his crimes and learn from his mistakes.”<sup>15</sup>

Put simply, the Supreme Court recognized that children are not adults, should not be treated as adults, and should instead be addressed as what they are, children incapable of making the types of moral choices required to produce culpability. Significantly, the Court’s decision requires states to provide a meaningful opportunity for release to individuals sentenced to die in prison. “An Act Concerning Sentence Modification” should be adopted to conform Connecticut law to the Eighth Amendment and to provide children with a chance to atone for their mistakes.

## II. The Benefits of “An Act Concerning Mandatory Minimum Sentences”

Just as changing procedures for sentence modification will permit our state to correct current injustices, Raised Bill No. 6475 provides our state with a chance to prevent future injustices. Eliminating mandatory minimum sentences will permit judges to appropriately consider the culpability of children who commit crimes.

<sup>9</sup> Brief of American Psychological Association as Amicus Curiae for Petitioners, *Graham*, 130 S.Ct. 2011, 16 (2010).

<sup>10</sup> Elizabeth Cauffman et al., *Age Differences in Affective Decision Making as Indexed By Performance on the Iowa Gambling Test*, DEVELOPMENTAL PSYCHOL. 14 (2009).

<sup>11</sup> Susan G. Millstein & Bonnie L. Halpern-Felsher, *Perceptions of Risk and Vulnerability*, in ADOLESCENT RISK AND VULNERABILITY 261, 264-270 (Baruch Fischhoff et al. eds., 2001).

<sup>12</sup> U.S., 130 S.Ct. 2011 (2010).

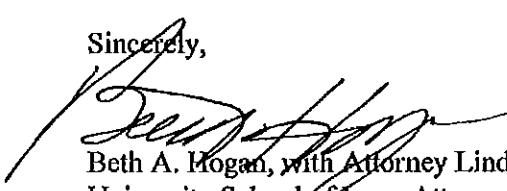
<sup>13</sup> *Id.* at 2031.

<sup>14</sup> *Id.* at 2032.

<sup>15</sup> *Id.* at 2033.

Current law mandates the transfer of children to the adult criminal docket for many offenses and subjects them to the same mandatory minimum sentences as adults.<sup>16</sup> It is without question that all crimes must be punished. However, punishment must also be appropriate. The Supreme Court has recognized that “juveniles have lessened culpability” and are therefore “less deserving of the most severe punishments.”<sup>17</sup> Appropriate punishments do not come from a “one size fits all” system; they come from a system which considers the individual circumstances of each person’s story. We urge this committee to take the first step toward preventing future injustices, and recommend adoption of “An Act Concerning Mandatory Minimum Sentences” so that children can be treated as children.

Sincerely,



Beth A. Hogan, with Attorney Linda Meyer\*, Carmen Tortora Professor of Law, Quinnipiac University School of Law, Attorney Sarah Russell\*, Assistant Professor, Quinnipiac University School of Law, Katie Cruickshank\*, Law Student, Quinnipiac University School of Law, Annie Muldowney\*, Law Student, Quinnipiac University School of Law, Daniel P. Scholfield\*, Law Student, Quinnipiac University School of Law

(\*We do not represent the views of Quinnipiac University or the Law School).

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<sup>16</sup> Conn. Gen. Stat. § 46b-127 (West 2008).

<sup>17</sup> *Id.*